Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1327

LAKE COUNTRY ESTATES, INC., a corporation, COUNTRY CLUB ESTATES, a partnership, and BOULDIN DEVELOPMENT CORPORATION, a corporation,

Petitioners,

vs.

TAHOE REGIONAL PLANNING AGENCY et al.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

Petition for Certiorari Filed March 21, 1978
Certiorari Granted June 5, 1978

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NOTE: The following documents were printed as appendices to the petition for writ of certiorari at the pages listed and are accordingly not reproduced in this Appendix.

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

April 16, 1973—Complaint filed in U. S. District Court for the Eastern District of California by Plaintiffs Lake Country Estates, Inc. and Country Club Estates.

July 13, 1973—Motion to Dismiss Complaint Filed by Defendant County of El Dorado.

August 1, 1973—Motion to Dismiss Complaint Filed by Defendants Tahoe Regional Planning Agency, John L. Meder, J. Allen Bray, Thomas Stewart, Lester S. Nagy, Charles C. Meneley, Jr., Walter E. MacKenzie, Raymond L. Kniseley, Norman B. Livermore, Jr., Elmo J. DeRicco, James Henry, Doug Leisz, William S. Briner, Jack W. Deinema and Richard M. Heikka.

October 15, 1973—First Amended Complaint Filed by Stipulation by Plaintiffs Lake Country Estates, Inc., Country Club Estates, and Bouldin Development Corporation.

October 15, 1973—Motion to Dismiss Complaint Filed by Defendants Douglas Leisz and Jack Deinema.

November 8, 1973—Amendment to Motion to Dismiss Filed by Defendants James Henry and William S. Briner.

January 4, 1974—Defendants Doug Leisz and Jack W. Deinema Voluntarily Dismissed Without Prejudice.

January 10, 1974—Order of District Court of January 7, 1974, Filed Staying Action Pending Appeal in *League to Save Lake Tahoe v. Tahoe Regional Planning Agency.*

January 28, 1974—Motion to Vacate Stay Filed by Plaintiffs.

March 15, 1974—Order of District Court of March 13, 1974, Filed Denying Plaintiffs' Motion to Vacate Stay.

February 18, 1975—Motion to Vacate Stay Filed by Plaintiffs.

February 26, 1975—Order of District Court of February 24, 1975, Filed Denying Plaintiffs' Motion to Vacate Stay and Continuing Stay Pending Disposition of Petition for Certiorari in *League to Save Lake Tahoe v. Tahoe Regional Planning Agency.*

August 20, 1975 (approx.)—Motions to Dismiss in This and Related Actions set for Hearing by District Court on September 25, 1975.

December 15, 1975—Opinion of District Court Dated December 11, 1975 Filed, Dismissing Complaints in This and Related Actions.

December 16, 1975—Judgment of District Court Entered for Defendants and Against Plaintiffs.

January 6, 1976—Notice of Appeal Filed by Plaintiffs in District Court.

February 9, 1976—Appeal Docketed in Court of Appeals.

September 30, 1976—Order of Court of Appeals Filed Consolidating Actions for Hearing.

August 5, 1977—First Opinion of Court of Appeals Filed and Judgment Entered.

August 19, 1977—Petition for Rehearing Filed by Defendant Tahoe Regional Planning Agency.

December 30, 1977—Second Opinion of Court of Appeals Filed and Judgment Entered as of December 21, 1977.

January 5, 1978—Petition for Rehearing Filed by Plaintiffs.

February 6, 1978—Order of Court of Appeals Filed Denying Petition for Rehearing as of January 30, 1978.

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Original Filed Oct 15 1973
Clerk, U.S. Dist. Court
Eastern District of California

In the United States District Court
For the Eastern District of California

Lake Country Estates, Inc., a corporation; Country Club Estates, a partnership; and Bouldin Development Corporation, a corporation,

Plaintiffs,

vs.

Tahoe Regional Planning Agency, County of El Dorado, State of California, State of Nevada, John L. Meder, J. Allen Bray, Thomas Stewart, Lester S. Nagy, Charles C. Meneley, Jr., Walter E. MacKenzie, Raymond L. Knisely, Norman B. Livermore, Jr., Elmo J. De Ricco, James Henry, Doug Leisz, William S. Briner and Jack W. Deinema, individually and as the Governing Body of the Tahoe Regional Planning Agency; Richard M. Heikka, individually and as Executive Officer of the Tahoe Regional Planning Agency,

Defendants.

Civil No. 82799

First Amended Complaint for Just Compensation and Damages for Taking of Private Property for Public Use; Injunction and Declaratory Relief

Plaintiffs, Lake Country Estates, Inc., Country Club Estates and Bouldin Development Corporation, complain and allege as follows:

JURISDICTION

1. The First and Second Claims for Relief are for just compensation and damages for property taken by defendants for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and in violation of the Tahoe Regional Planning Compact, an interstate compact approved by Congress, and arise under the Fifth and Fourteenth Amendments to the Constitution of the United States and the Tahoe Regional Planning Compact. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars. This Court has jurisdiction of those claims under 28 U.S.C. § 1331.

2. The Seventh and Eighth Claims for Relief are for just compensation and damages to redress the deprivation by defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka, under color of state statute, ordinance and regulation, of rights secured to plaintiffs by the Fifth and Fourteenth Amendments to the Constitution of the United States and arise under 42 U.S.C. § 1983. This Court has jurisdiction of those claims under 28 U.S.C. §§ 1331 and 1343.

3. The Ninth and Tenth claims for Relief are for injunctive relief to enjoin defendants from taking plaintiffs' property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and the Tahoe Regional Planning Compact. The

matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars. This Court has jurisdiction of those claims under 28 U.S.C. § 1331.

4. The Eleventh and Twelfth Claims for Relief are declaratory relief to declare that defendants have taken plaintiffs' property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution and the Tahoe Regional Planning Compact. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars. This Court has jurisdiction of those claims under 28 U.S.C. §§ 1331 and 2201.

5. The Third, Fourth, Fifth and Sixth Claims for Relief arise out of a common nucleus of operative fact with the First, Second, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Claims for Relief. This Court has pendent jurisdiction of the Third, Fourth, Fifth and Sixth Claims for Relief.

PARTIES

6. Plaintiff Lake Country Estates, Inc. ("Lake Country") is a corporation in good standing incorporated under the laws of the State of California.

7. Plaintiff Country Club Estates ("Country Club") is a partnership with its principal place of business in San Francisco, California.

8. Plaintiff Bouldin Development Corporation ("Bouldin") is a corporation in good standing incorporated under the laws of the State of California.

9. Defendant Tahoe Regional Planning Agency is a separate legal entity existing under and by virtue of the Tahoe Regional Planning Compact, an interstate compact executed between the States of Nevada and California and

approved by Congress, and is a political subdivision of both defendant State of California and defendant State of Nevada.

10. Defendant County of El Dorado is a county and political subdivision of the State of California, duly organized and existing under the laws of the State of California.

11. Defendant State of California is a sovereign state of the United States of America.

12. Defendant State of Nevada is a sovereign state of the United States of America.

13. Defendant John L. Meder is, and at times relevant hereto was, the Chairman of the Governing Body of defendant Tahoe Regional Planning Agency. Defendant J. Allen Bray is, and at all times relevant hereto was, a member of said Governing Body, and was the Chairman of said Governing Body prior to the time that defendant John L. Meder assumed that position. At all times relevant hereto, either defendant Meder or defendant Bray was the Chairman of said Governing Body. Defendants Thomas Stewart, Lester S. Nagy, Charles C. Meneley, Jr., Walter E. MacKenzie, Raymond L. Knisely, Norman B. Livermore, Jr., and Elmo J. DeRicco are, and at all times relevant hereto were, members of said Governing Body. Defendants James Henry and Doug Leisz are, and at times relevant hereto were, members of said Governing Body. Defendants William S. Briner and Jack W. Deinema were at times relevant hereto members of said Governing Body. Defendant Richard M. Heikka is, and at all times relevant hereto was, the Executive Officer of defendant Tahoe Regional Planning Agency. Said defendants were the officers and agents of defendant Tahoe Regional Planning Agency in connection with all matters alleged in this complaint, and all actions of defendant Tahoe Regional Planning Agency alleged in

this complaint were performed by and through said defendants.

FIRST CLAIM FOR RELIEF

14. Plaintiffs reallege and incorporate herein by reference paragraphs 1, 6 and 8 through 13.

15. Plaintiff Lake Country is, and at all times material hereto was, the owner of certain real property (the "Lake Country property") located in the County of El Dorado, State of California, and in the Lake Tahoe Region as defined in Section 66801 of the California Government Code, as more particularly described in Exhibit A to this complaint which is incorporated herein by this reference.

16. Bouldin is, and at all times material hereto was, the beneficiary of a deed of trust (the "Deed of Trust") of a portion of the Lake Country property. The Deed of Trust secures a purchase money promissory note in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900). The trustor of the Deed of Trust is plaintiff Lake Country.

17. On or about April 9, 1971, plaintiff Lake Country submitted a master plan to defendant County of El Dorado for the development of the Lake Country property for multiple residential and related uses. On or about June 1, 1971, defendant County of El Dorado approved that master plan. In accordance with that approval, plaintiff Lake Country was entitled to develop and improve the Lake Country property for multiple residential and related uses.

18. On or about July 7, 1971, plaintiff Lake Country presented that master plan to the Advisory Planning Commission of defendant Tahoe Regional Planning Agency. The Advisory Planning Commission approved the master plan on or about July 7, 1971.

19. On or about February 10, 1972, defendant Tahoe Regional Planning Agency adopted a Land Use Ordinance (the "Ordinance") and General Plan (the "Plan") which became effective on April 10, 1972. Pursuant to the Ordinance and the Plan portions of the Lake Country property were classified "general forest" and substantially all of the remainder was classified "conservation reserve."

20. Under the terms of the Ordinance and Plan and as a result of them, all beneficial use or development of the Lake Country property was prohibited and prevented.

21. After the enactment of the Ordinance and Plan, plaintiff Lake Country again applied to defendant Tahoe Regional Planning Agency to approve the master plan for development of the Lake Country property for multiple residential and related uses and presented all relevant facts to support its application. On or about October 12, 1972, the Governing Board of defendant Tahoe Regional Planning Agency, without any foundation in fact or law, rejected the application and made an order with respect causing all of the Lake Country property to be classified "conservation reserve."

22. As a result of this refusal to approve plaintiff Lake Country's application and this order, all beneficial use or development of the Lake Country property was prohibited and prevented, as it had been since the Ordinance and Plan became effective.

23. Defendant Tahoe Regional Planning Agency has announced, by and through its agents, its intention to acquire the Lake Country property, but it has failed to institute condemnation proceedings or to pay plaintiffs Lake Country and Bouldin just compensation for their property. Defendant Tahoe Regional Planning Agency has also failed and refused to give timely or proper considera-

tion to plaintiff Lake Country's applications with respect to development of the Lake Country property, and has rendered futile the making of any such applications. Plaintiffs Lake Country and Bouldin are informed and believe, and on that ground allege, that defendant Tahoe Regional Planning Agency has intentionally refused to give timely or proper consideration to plaintiff Lake Country's applications with respect to development of the Lake Country property in order to prevent and frustrate applications to develop and development of the Lake Country property and in order to destroy all economic value or use of the Lake Country property and to take that property for public use without instituting condemnation proceedings and without paying plaintiffs Lake Country and Bouldin just compensation for their property.

24. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Lake Country's applications, announcing its intention to acquire the Lake Country property, failing and refusing to give timely and proper consideration to plaintiff Lake Country's applications and by thereby prohibiting and preventing all beneficial use or development of the Lake Country property, defendant Tahoe Regional Planning Agency, and defendants County of El Dorado, the State of California and the State of Nevada acting through the Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Lake Country property and have taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and the Tahoe Regional Planning Compact as approved by Congress.

25. The fair market value of the Lake Country property at the time of said taking was Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000).

26. As a proximate result of said arbitrary, capricious, unreasonable, discriminatory and unlawful destruction of all economic value and use of the Lake Country property and of that taking of that Lake Country property for public use without due process of law and without just compensation, plaintiff Lake Country has been injured in the amount of Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000).

27. As a proximate result of said arbitrary, capricious, unreasonable, discriminatory and unlawful destruction of all economic value and use of the Lake Country property and of that taking of that Lake Country property for public use without due process of law and without just compensation, Bouldin has been injured in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900) by virtue of the destruction of the value of Bouldin's security under the Deed of Trust and because under the terms of the Deed of Trust Bouldin is entitled to any and all award of damages in connection with the condemnation for public use of or injury to the Lake Country property or any part of it.

28. On or about October 6, 1972, plaintiff Lake Country presented a claim in the amount of Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000) to defendants Tahoe Regional Planning Agency, County of El Dorado, State of California and State of Nevada for the damages sought against these defendants in this action.

29. Defendant County of El Dorado rejected said claim in its entirety on or after October 17, 1972 and delivered or deposited in the mail written notice of its rejection of

the claim on or after October 18, 1972. Defendant Tahoe Regional Planning Agency rejected said claim in its entirety on or after October 25, 1972 and delivered or deposited in the mail written notice of its rejection of the claim on or after November 2, 1972. Defendant State of California rejected said claim on or after November 9, 1972 and delivered or deposited in the mail written notice of its rejection on or after November 9, 1972. Defendant State of Nevada rejected said claim in its entirety on or after November 3, 1972.

30. On or about April 7, 1973, plaintiff Bouldin presented a claim in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900) to defendants Tahoe Regional Planning Agency, County of El Dorado, State of California and State of Nevada for the damages sought against these defendants in this action.

31. Defendant El Dorado County rejected said claim in its entirety on or after April 17, 1973 and delivered or deposited in the mail written notice of its rejection of the claim on or after April 18, 1973. Defendant Tahoe Regional Planning Agency rejected said claim in its entirety on or after May 24, 1973 and delivered or deposited in the mail written notice of its rejection of the claim on or after May 31, 1973. Defendant State of California rejected said claim in its entirety on or after April 30, 1973 and delivered or deposited in the mail written notice of its rejection of the claim on or after April 30, 1973. Defendant State of Nevada rejected said claim in its entirety on or after May 16, 1973.

SECOND CLAIM FOR RELIEF

32. Plaintiffs reallege and incorporate herein by this reference the allegations of paragraphs 1 and 8 through 13.

33. Plaintiff Country Club is the owner of certain real property (the "Country Club property") located in the County of El Dorado, State of California, and in the Lake Tahoe Region as defined in Section 66801 of the California Government Code, as more particularly described in Exhibit B to this complaint which is incorporated herein by this reference.

34. On or about April 9, 1972 plaintiff Country Club submitted a master plan to defendant County of El Dorado for the development of the Country Club property for multiple residential, country club and commercial purposes. On or about June 1, 1971, defendant County of El Dorado approved that master plan. In accordance with that approval, plaintiff Country Club was entitled to develop and improve the Country Club property for multiple residential, country club and commercial uses.

35. On or about July 7, 1971, plaintiff Country Club presented that master plan to the Advisory Planning Commission of defendant Tahoe Regional Planning Agency. The Advisory Planning Commission approved the master plan on or about July 7, 1971.

36. On or about February 10, 1972, defendant Tahoe Regional Planning Agency adopted a Land Use Ordinance (the "Ordinance") and General Plan (the "Plan") which became effective on April 10, 1972. Pursuant to the Ordinance and the Plan portions of the Country Club property were classified "general forest" and the remainder was classified "conservation reserve".

37. Under the terms of that Ordinance and Plan and as a result of them, all beneficial use or development of the Country Club property was prohibited and prevented.

38. After the enactment of the Ordinance and Plan, plaintiff Country Club again applied to defendant Tahoe

Regional Planning Agency to approve the master plan for development of the property for multiple residential, country club and commercial uses and presented all relevant facts to support its application. On or about October 12, 1972, the Governing Body of defendant Tahoe Regional Planning Agency, without any foundation in fact or law, rejected the application and made an order with respect to causing all of the Country Club property to be classified "conservation reserve".

39. As a result of this refusal to approve plaintiff Country Club's application and this order, all beneficial use or development of the Country Club property was prohibited and prevented, as it had been since the Ordinance and Plan became effective.

40. Defendant Tahoe Regional Planning Agency has announced, by and through its agents, its intention to acquire the Country Club property, but it has failed to institute condemnation proceedings or to pay plaintiff Country Club just compensation for its property. Defendant Tahoe Regional Planning Agency has also failed and refused to give timely or proper consideration to plaintiff Country Club's applications with respect to development of Country Club property, and has rendered futile the making of any such applications. Plaintiff Country Club is informed and believes, and on that ground alleges, that defendant Tahoe Regional Planning Agency has intentionally refused to give timely or proper consideration to plaintiff Country Club property in order to prevent and frustrate applications to develop and development of the Country Club property and in order to destroy all economic value or use of the Country Club property and to take that property for public use without instituting condemnation proceedings and without paying plaintiff Country Club just compensation for its property.

41. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Country Club's applications, announcing its intention to acquire the Country Club property, failing and refusing to give timely and proper consideration to plaintiff Country Club's applications and by thereby prohibiting and preventing all beneficial use and development of the Country Club property, defendant Tahoe Regional Planning Agency, and defendants County of El Dorado, State of California and State of Nevada acting through defendant Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Country Club property and have taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and the Tahoe Regional Planning Compact as approved by Congress.

42. The fair market value of the Country Club property at the time of said taking was Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000).

43. As a proximate result of said arbitrary, capricious, unreasonable, discriminatory and unlawful destruction of all economic value and use of the Country Club property and of that taking of that Country Club property for public use without due process of law and without just compensation, plaintiff Country Club has been injured in the amount of Twelve Million Five Hundred and Fifty Thousand Dollars ($12,550,000).

44. On or about October 6, 1972, plaintiff Country Club presented a claim in the amount of Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000) to defend-

ants Tahoe Regional Planning Agency, State of California, State of Nevada and County of El Dorado for the damages sought against these defendants in this action.

45. Defendant County of El Dorado rejected said claim in its entirety on or about October 17, 1972, and delivered or deposited in the mail written notice of its rejection of the claim on or after October 18, 1972. Defendant Tahoe Regional Planning Agency rejected said claim in its entirety on or after October 25, 1972, and delivered or deposited in the mail written notice of its rejection of the claim on or after November 2, 1972. Defendant State of California rejected said claim on or after November 9, 1972 and delivered or deposited in the mail written notice of its rejection on or after November 9, 1972. Defendant State of Nevada rejected said claim in its entirety on November 3, 1972.

THIRD CLAIM FOR RELIEF

46. Plaintiffs reallege and incorporate herein by this reference paragraphs 1 through 6 and 8 through 13 and paragraphs 15 through 23 and 25 through 31 of the First Claim for Relief.

47. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Lake Country's applications, announcing its intention to acquire the Lake Country property, failing and refusing to give timely and proper consideration to plaintiff Lake Country's applications, and by thereby prohibiting and preventing all beneficial use or development of the Lake Country property, defendant Tahoe Regional Planning Agency, and defendants County of El Dorado and the State of California acting through the Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully

destroyed all economic value or use of the Lake Country property and have taken the property for public use without due process of law and without just compensation in violation of the Constitution and laws of the State of California.

FOURTH CLAIM FOR RELIEF

48. Plaintiffs reallege and incorporate herein by this reference paragraphs 1 through 6 and 8 through 13 and paragraphs 15 through 23 and 25 through 31 of the First Claim for Relief.

49. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Lake Country's applications, announcing its intention to acquire the Lake Country property, failing and refusing to give timely and proper consideration to plaintiff Lake Country's applications, and by thereby prohibiting and preventing all beneficial use or development of the Lake Country property, defendant Tahoe Regional Planning Agency, and defendant State of Nevada acting through the Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Lake Country property and have taken the property for public use without due process of law and without just compensation in violation of the Constitution and laws of the State of Nevada.

FIFTH CLAIM FOR RELIEF

50. Plaintiffs reallege and incorporate herein by this reference paragraphs 1 through 5, 7 and 9 through 13 and paragraphs 33 through 40 and 42 through 45 of the Second Claim for Relief.

51. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Country Club's applications, an-

nouncing its intention to acquire the Country Club property, failing and refusing to give timely and proper consideration to plaintiff Country Club's applications, and by thereby prohibiting and preventing all beneficial use or development of the Country Club property, defendant Tahoe Regional Planning Agency, and defendants County of El Dorado and the State of California acting through the Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Country Club property and have taken the property for public use without due process of law and without just compensation in violation of the Constitution and laws of the State of California.

SIXTH CLAIM FOR RELIEF

52. Plaintiffs reallege and incorporate herein by this reference paragraphs 1 through 5, 7 and 9 through 13 and paragraphs 33 through 40 and 42 through 45 of the Second Claim for Relief.

53. By enacting and implementing the Ordinance and Plan, rejecting plaintiff Country Club's applications, announcing its intention to acquire the Country Club property, failing and refusing to give timely and proper consideration to plaintiff Country Club's applications, and by thereby prohibiting and preventing all beneficial use or development of the Country Club property, defendant Tahoe Regional Planning Agency, and defendant State of Nevada acting through the Tahoe Regional Planning Agency, have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Country Club property and have taken the property for public use without due process of law and without just compensation in violation of the Constitution and laws of the State of Nevada.

SEVENTH CLAIM FOR RELIEF

54. Plaintiffs reallege and incorporate herein by this reference paragraphs 2, 6, and 8 through 13, and paragraphs 15 through 23 and 25 through 31 of the First Claim for Relief.

55. Defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka have, under color of state statutes and under color of the ordinances, regulations, plans, enactments and orders of the Tahoe Regional Planning Agency, enacted and implemented the Ordinance and Plan, rejected plaintiff Lake Country's applications, announced their intention to acquire the Lake Country property, failed and refused to give timely and proper consideration to plaintiff Lake Country's applications and prohibited and prevented all beneficial use or development of the Lake Country property. Said defendants have thereby arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Lake Country property and have taken the property for public use without due process of law and without just compensation.

56. Said defendants have thereby under color of state statute, ordinance and regulation, deprived plaintiffs Lake Country and Bouldin, and each of them, of rights secured to them, and each of them, by the Fifth and Fourteenth Amendments to the Constitution and the laws of the United States.

EIGHTH CLAIM FOR RELIEF

57. Plaintiffs reallege and incorporate herein by this reference paragraphs 2, 7 and 9 through 12 and paragraphs 33 through 40 and 42 through 45 of the Second Claim for Relief.

58. Defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka have, under color of state statutes and under color of the ordinances, regulations, plans, enactments and orders of the Tahoe Regional Planning Agency, enacted and implemented the Ordinance and Plan, rejected plaintiff Country Club's applications, announced their intention to acquire the Country Club property, failed and refused to give timely and proper consideration to plaintiff Country Club's applications, and prohibited and prevented all beneficial use or development of the Country Club property. Said defendants have thereby arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Country Club property and have taken the property for public use without due process of law and without just compensation.

59. Said defendants have thereby, under color of state statute, ordinance and regulation, deprived plaintiff Country Club of rights secured to it by the Fifth and Fourteenth Amendments to the Constitution and the laws of the United States.

NINTH CLAIM FOR RELIEF

60. Plaintiffs reallege and incorporate herein by this reference paragraphs 3, 6 and 8 through 13 and paragraphs 15 through 26 of the First Claim for Relief and paragraphs 55 and 56 of the Seventh Claim for Relief.

61. Plaintiffs Lake Country and Bouldin are informed and believe, and on that ground allege, that defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka are insolvent

or otherwise unable to respond in damages adequate to compensate plaintiffs Lake Country and Bouldin for the injuries they, and each of them, have sustained. For this reason and on the basis of the facts alleged above, the aforesaid arbitrary, capricious, unreasonable, discriminatory and unlawful destruction of all economic value and use of the Lake Country property and taking of the Lake Country property for public use without due process of law and without just compensation will cause plaintiffs Lake Country and Bouldin great and irreparable injury for which they have no adequate remedy at law.

TENTH CLAIM FOR RELIEF

62. Plaintiffs reallege and incorporate herein by this reference paragraphs 3, 7 and 9 through 13 and paragraphs 33 through 43 of the Second Claim for Relief and paragraphs 58 and 59 of the Eighth Claim for Relief.

63. Plaintiff Country Club is informed and believes, and on that ground alleges, that defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka are insolvent or otherwise unable to respond in damages adequate to compensate plaintiff Country Club for the injuries it has sustained. For this reason and on the basis of the facts alleged above, the aforesaid arbitrary, capricious, unreasonable, discriminatory and unlawful destruction of all economic value and use of the Country Club property and taking of the Country Club property for public use without due process of law and without just compensation will cause plaintiff Country Club great and irreparable injury for which it has no adequate remedy at law.

ELEVENTH CLAIM FOR RELIEF

64. Plaintiff realleges and incorporates herein by this reference paragraphs 4, 6 and 9 through 13 and paragraphs 15 through 24 of the First Claim for Relief.

65. An actual controversy has arisen and now exists between plaintiffs Lake Country and Bouldin and defendants relating to their respective legal rights in that plaintiffs Lake Country and Bouldin contend that defendants have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Lake Country property and have taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States; whereas, defendants dispute such contentions and contend that they have not arbitrarily, capriciously, unreasonably, discriminatorily or unlawfully destroyed all economic value or use of the Lake Country property and have not taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

66. Plaintiffs Lake Country and Bouldin desire a declaration of their rights with respect to the aforesaid matter, and such a declaration is necessary and appropriate at this time in order that plaintiffs Lake Country and Bouldin may ascertain their rights.

TWELFTH CLAIM FOR RELIEF

67. Plaintiffs reallege and incorporate herein by this reference paragraphs 4, 7 and 9 through 13 and paragraphs 33 through 41 of the Second Claim for Relief.

68. An actual controversy has arisen and now exists between plaintiff Country Club and defendants relating to

their respective legal rights in that plaintiff Country Club contends that defendants have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed all economic value or use of the Country Club property and have taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States; whereas, defendants dispute such contentions and contend that they have not arbitrarily, capriciously, unreasonably, discriminatorily or unlawfully destroyed all economic value or use of the Country Club property and have not taken the property for public use without due process of law and without just compensation in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

69. Plaintiff Country Club desires a declaration of its rights with respect to the aforesaid matter, and such a declaration is necessary and appropriate at this time in order that plaintiff Country Club may ascertain its rights.

Wherefore, plaintiffs pray:

1. That plaintiff Lake Country have judgment in its favor in the amount of Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000), plus interest, under the First Claim for Relief;

2. That plaintiff Bouldin have judgment in its favor in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900), plus interest, under the First Claim for Relief;

3. That plaintiff Country Club have judgment in its favor in the amount of Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000), plus interest, under the Second Claim for Relief;

4. That plaintiff Lake Country have judgment in its favor in the amount of Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000), plus interest, under the Third Claim for Relief;

5. That plaintiff Bouldin have judgment in its favor in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900), plus interest, under the Third Claim for Relief;

6. That plaintiff Lake Country have judgment in its favor in the amount of Thirteen Million Two Hundred Fifty Thousand Dollars ($13,250,000), plus interest, under the Fourth Claim for Relief;

7. That plaintiff Bouldin have judgment in its favor in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900), plus interest, under the Fourth Claim for Relief;

8. That plaintiff Country Club have judgment in its favor in the amount of Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000), plus interest, under the Fifth Claim for Relief;

9. That plaintiff Country Club have judgment in its favor in the amount of Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000), plus interest, under the Sixth Claim for Relief;

10. That plaintiff Lake Country have judgment in its favor in the amount of Thirteen Million Five Hundred Fifty Thousand Dollars ($13,550,000), plus interest, against defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka under the Seventh Claim for Relief;

11. That plaintiff Bouldin have judgment in its favor in the amount of Six Million Ninety-nine Thousand Nine Hundred Dollars ($6,099,900), plus interest, against defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka under the Seventh Claim for Relief;

12. That plaintiff Country Club have judgment in its favor in the amount of Twelve Million Five Hundred Fifty Thousand Dollars ($12,550,000), plus interest, against defendants Tahoe Regional Planning Agency, Meder, Bray, Stewart, Nagy, Meneley, MacKenzie, Knisely, Livermore, DeRicco, Henry, Leisz, Briner, Deinema and Heikka under the Eighth Claim for Relief;

13. That defendants, and their officers, agents, servants, employees, attorneys, and all persons acting in concert or participation with them or any of them, and all persons, firms, corporations, public agencies or public entities who receive actual notice of this action by personal service or otherwise, and each of them, be preliminarily and permanently enjoined and restrained under the Ninth Claim for Relief:

(a) from classifying the Lake Country property as "general forest" or "conservation reserve" under the Ordinance and Plan or otherwise implementing, enforcing or applying the Ordinance or Plan as to the Lake Country property so as to prohibit or prevent the beneficial use or development of the property;

(b) from failing to approve plaintiff Lake Country's master plan for development of the Lake Country property for multiple residential and related uses;

(c) from otherwise arbitrarily, capriciously, unreasonably, discriminatorily or unlawfully destroying the economic value or use of the Lake Country property and taking the Lake Country property for public use

without due process of law and without paying just compensation to plaintiffs Lake Country and Bouldin;

14. That defendants, and their officers, agents, servants, employees, attorneys and all persons acting in concert or participation with them or any of them, and all persons, firms, corporations, public agencies or public entities who receive actual notice of this action by personal service or otherwise, and each of them, be preliminarily and permanently enjoined and restrained under the Tenth Claim for Relief:

(a) from classifying the Country Club property as "general forest" or "conservation reserve" under the Ordinance and Plan or otherwise implementing, enforcing or applying the Ordinance and Plan as to the Country Club property so as to prohibit or prevent the beneficial use and development of the property;

(b) from failing to approve plaintiff Country Club's master plan for development of the Country Club property for multiple residential, golf course and commercial uses;

(c) from otherwise arbitrarily, capriciously, unreasonably, discriminatorily or unlawfully destroying the economic value or use of the Country Club property and taking the Country Club property for public use without due process of law and without paying just compensation to plaintiff Country Club;

15. That the Court declare the respective rights of plaintiffs Lake Country and Bouldin and defendants and in particular declare that by classifying the Lake Country property as "general forest" or "conservation reserve" under the Ordinance and Plan or otherwise implementing, enforcing or applying the Ordinance or Plan as to the Lake

Country property so as to prohibit or prevent the beneficial use or development of the property; by failing to approve plaintiff Lake Country's master plan for development of the Lake Country property for multiple residential and related uses; and by failing or refusing to give timely and proper consideration to plaintiff Lake Country's applications with respect to development of the Lake Country property; defendants have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed the economic value or use of the Lake Country property and have taken the Lake Country property for public use without due process of law and without paying just compensation to plaintiffs Lake Country and Bouldin in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, and are liable to plaintiffs Lake Country and Bouldin for the damages they, and each of them, have incurred as a result thereof;

16. That the Court declare the respective rights of plaintiff Country Club and defendants and in particular declare that by classifying the Country Club property as "general forest" or "conservation reserve" under the Ordinance or otherwise implementing, enforcing or applying the Ordinance and Plan as to the Country Club property so as to prohibit or prevent the beneficial use and development of the property; by failing to approve plaintiff Country Club's master plan for development of the Country Club property for multiple residential, golf course and commercial uses; and by failing or refusing to give timely and proper consideration to plaintiff Country Club's applications with respect to development of the Country Club property; defendants have arbitrarily, capriciously, unreasonably, discriminatorily and unlawfully destroyed the economic value or use of the Country Club property and have

taken the Country Club property for public use without due process of law and without paying just compensation to plaintiff Country Club, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, and are liable to plaintiff Lake Country for the damages it has incurred as a result thereof;

17. That plaintiffs recover their costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, incurred in or because of this action;

18. That plaintiffs have such other and further relief as the Court may deem proper.

Dated: September 28, 1973

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